

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 881/2022

Rajinder Krishan Sharma & Anr.

Applicants

Versus

Union of India & Ors.

Respondents

S. No.	Particulars	Page No.
1.	Reply Affidavit on behalf of Respondent No. 2, Central Pollution Control Board (CPCB) in compliance of order dated 19.12.2022 in O.A. No. 881/2022, Rajinder Krishan Sharma & Anr. Vs. Union of India & Ors.	
2.	Annexure-I: A copy of Hon'ble NGT order dated 19.12.2022 & Notice dated 29.12.2022.	



(N.K Gupta)

Scientist E

Central Pollution Control Board

Delhi-110032

Date: 10.03.2023

Place: Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 881/2022

Rajinder Krishan Sharma & Anr.

Applicants

Versus

Union of India & Ors.

Respondents

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2,
CENTRAL POLLUTION CONTROL BOARD (CPCB)**

I, Nalin Kumar Gupta, S/o Late Shri Prabhakar Gupta, aged 59 years, working as Scientist 'E' and Divisional Head - UPC-I in the Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032, do hereby solemnly affirm and declare as under:

That I, in the capacity of Scientist 'E' of the Central Pollution Control Board (hereinafter referred as CPCB) am fully conversant with the facts of the case and hence, competent to swear this reply affidavit on behalf of the Respondent No. 2 (CPCB).

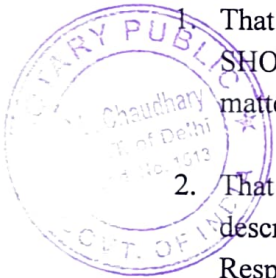
1. That the averments made in Paras 1 to 2 under 'MOST RESPECTFULLY SHOWETH' are about background of filing the Original Application in the matter, and hence need no comments from this Answering Respondent No. 2.

2. That under 'Parawise Submission' the averments made in the Para 1 to 21 are about description of site under reference and factual consequences i.e. violation by other Respondents in the matter elaborated by the Applicant, and hence needs no comments from this Answering Respondent.

3. That the averments made in the Para 22-25 are about avoiding procedure of obtaining Environmental Clearance, violation of the provisions of the Town and Country Planning Act of Haryana and diversion of Forest Land to non-Forestry purposes by Respondent No. 8, and hence need no comments from this Answering Respondent No. 2.

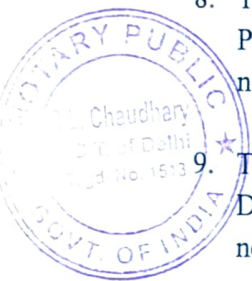
4. That the averments made in the Para 26 are about Applicants and their activity, and hence need no comments from this Answering Respondent No. 2.

5. That the averments made in the Para 27 are about Respondent No. 1 – Union of India represented through Ministry of Environment and Forests (MoEF) and role of



Respondent No. 1 in present matter, and hence need no comments from this Answering Respondent No. 2.

6. That the averments made in the Para 28 are about this Answering Respondent No. 2 – Central Pollution Control Board and role of the CPCB in the present matter. It is humbly submitted that, CPCB has been making continuous efforts and taking actions as per functions and powers entrusted to CPCB under the Provisions of the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986. The Applicant has made no specific assertion against the Answering Respondent No. 2 in the present matter and such general and wide worded assertions merit no response from Answering Respondent No. 2.
7. That the averments made in the Para 29 are about Respondent No. 3 – State of Haryana and role of Respondent No. 3 in present matter, and hence need no comments from this Answering Respondent No. 2.
8. That the averments made in the Para 30 are about Respondent No. 4 – Haryana State Pollution Control Board and role of Respondent No. 4 in present matter, and hence need no comments from this Answering Respondent No. 2.
9. That the averments made in the Para 31 are about Respondent No. 5 – Haryana Urban Development Authority and role of Respondent No. 5 in present matter, and hence need no comments from this Answering Respondent No. 2.
10. That the averments made in the Para 32 are about Respondent No. 6 – Deputy Commissioner of Gurgaon and Respondent No. 7 – Commissioner of Police of Gurgaon and role of them in present matter, and hence need no comments from this Answering Respondent No. 2.
11. That the averments made in the Para 33 are about Respondent No. 8 – Mr. Raj Singh Gehlot and his role in present matter. It is submitted that, if there are violations by the Respondent No. 8, under the concerned Acts/Rules are to be dealt by the Respective Agencies as per provisions stipulated under such Acts/Rules.
12. That the averments made in the Para 34 are about Respondent No. 9 – Principal Chief Conservator of Forests, Government of Haryana and role of Respondent No. 9 in present matter, and hence need no comments from this Answering Respondent No. 2.
13. That the averments made in the Para 35 are about Respondent No. 10 – Chief Conservative of Forests, Sohna Road, Gurugram and role of Respondent No. 10 in present matter, and hence need no comments from this Answering Respondent No. 2.



14. That the averments made in the Para 38-39 are about facts of violation of the Provisions of Indian Forest Act, 1927 and Forest conservation Act, 1980 by diversion of Forest land for Non-Forestry purposes and commercial use of same by the Respondent No. 8 and non-action of Respondent no. 5 in the matter. It is submitted that, if there are violations by the Respondent No. 8, under the concerned Acts/Rules are to be dealt by the Respective Agency (ies) as per provisions stipulated under such Acts/Rules.
15. That the averments made in the Para 40 are about Grounds, 41-43 are about Limitation and rest is about Prayer in the Application, and hence need no comments from this Answering Respondent No. 2.

That, the issue raised in present matter is regarding construction of a commercial building in a forest declared area. CPCB has no role whatsoever in such matters as Environmental Clearances/Consents/NOCs/Licenses etc. are granted only by State Level Agencies and Local Bodies. CPCB is a Proforma Respondent in this case.

That in light of the above submissions, it is respectfully prayed that name of CPCB may please be deleted from the list of Respondents. However, this Answering Respondent No. 2 i.e. CPCB shall abide by any order or directions passed by the Hon'ble National Green Tribunal.



DEPONENT

एन. के. गुप्ता/N. K. Gupta
वैज्ञानिक "ई"/Scientist "E"
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
M/o Env't Forest & Climate Change, Gov't of India
परिवेश भवन, पूर्वी अर्जुन नगर
Parivesh Bhawan, East Arjun Nagar
दिल्ली/Delhi-110032

VERIFICATION

10 MAR 2023

Verified at Delhi on this 09th day of March, 2023 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

ATTESTED

NOTARY PUBLIC
GOVT. OF INDIA

10 MAR 2023

DEPONENT

एन. के. गुप्ता/N. K. Gupta
वैज्ञानिक "ई"/Scientist "E"
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
M/o Env't Forest & Climate Change, Gov't of India
परिवेश भवन, पूर्वी अर्जुन नगर
Parivesh Bhawan, East Arjun Nagar
दिल्ली/Delhi-110032

Item No.01

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 881/2022

Rajinder Krishan Sharma & Anr.

Applicants

Versus

Union of India & Ors.

Respondents

Date of hearing: 19.12.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicants: Mr. Rajinder Krishan Sharma, IFS Retd.

**Application under Sections 14 and 15 read with Sections 18 (1) of the
National Green Tribunal Act, 2010.**

ORDER

1. The applicants- Mr. Rajinder Krishan Sharma, a retired Indian Forest Officer, and Mr. Pawan Kumar Bansal, a Journalist, have filed the present application under Sections 14 and 15 read with Sections 18 (1) of the National Green Tribunal Act, 2010 seeking declaration as to the commercial building project 'Ambience Island Lagoon Apartments' of respondent no. 8 being illegal, stopping further construction, directing payment of environmental compensation and ordering investigation by CBI regarding conspiracy of suppression of offence of diversion of notified forest land.

2. The applicant has submitted that the Government of Haryana notified Nathupur Bundh as protected forest vide Government of Haryana notification no. S.O 251/C.A.16/27/S.29/81 dated 02.12.1981 and Nathupur drain, on which the abovesaid bundh is constructed as protected forest vide Government of Haryana notification No.

S.O.71/C.A.16/27/829/85 dated. 05.07.1985. Protected forest area measuring 4484 square meters of Sikanderpur- Nathupur Bundh involving khasra numbers 526, 527, 528, 529 and 534 of Village Nathupur hadbast no. 67, which also constituted part of Nathupur drain, was illegally diverted by Mr. Raj Singh Gehlot, Director of Ambience Island Lagoon Apartments, Gurgaon for non-forestry activity. As per the provisions of the Forest Conservation Act, 1980, prior approval of Government of India, Ministry of Environment, Forest & Climate Change was necessary. The Project Proponents wilfully avoided to seek Forest and Environmental Clearances to avoid the process of public hearing and mandatory requirements of compensatory afforestation. The damage report bearing no. 29065 dated 14.05.2008 was issued against Mr. Raj Singh Gehlot, Director of Ambience Island Lagoon Apartments, Gurgaon for violating the provisions of the Indian Forest Act 1927 and Prosecution Case no. 7G/0809 was filed against him. Mr. Raj Singh Gehlot filed CRM no. 34200 of 2012 in the High Court of Punjab and Haryana for quashing of criminal proceedings against him. Mr. Raj Singh Gehlot submitted proposal to the Forest Department of Haryana for regularization of the violations reported against him vide damage report no. 29065 dated 14.05.2008 and prosecution case no. 7G/0809 of Special Environment Court, Faridabad which was processed by the DFO Gurgaon and submitted to PCCF Haryana for onward submission to Government of India for approval as per section 2 of the Forest Conservation Act, 1980. Representation on behalf of M/S Ambience Developer and Infrastructure Pvt. Ltd. was submitted to Principal Secretary Forests, Haryana. This representation seeking waiver of penal CA charges was forwarded to PCCF Haryana vide PS Forest and wildlife letter no. 2797 dated 17.09.2015. The Principal Chief Conservator of Forest, Haryana, fraudulently in collusion with the accused, decided the representation vide his office letter no. NT/D-1116381/4344 dated 16.10.2015 and cancelled damage report (DR) no.

29065 dated 14.05.2008 against Mr. Raj Singh Gehlot and directed withdrawal of the prosecution case. The PCCF Haryana also cancelled the FCA case no. FR/HR/Others/13983/2015 submitted by M/S Ambience Developer and Infrastructure Pvt. Ltd. on the ground that no forest land was involved. However, the Government of Haryana decided that letter no. NT/D-111-6381-4344 dated 16.10.2015 be withdrawn. In compliance with above orders of the Government, the PCCF Haryana vide office letter no. Admin/D-111-6381/6164 dated 19.01.2016 issued the withdrawal of office letter no. NT/D-111-6381-4344 dated 16.10.2015 accordingly. The Government of Haryana buckled under pressure of the accused and vide Additional Chief Secretary, Forest Department letter no. 4346-FT-52015/4852 dated 31.03.2017 directed that letter no. NT/D-111-6381/4344 dated 16.10.2015 be restored and letter no. Admn-D-111-6381/6164 dated 19.01.2016 be withdrawn. In compliance with the above orders of the Government, the PCCF, Haryana issued order no. NT/D-111-6381/81 dated 12.04.2017. On withdrawal, the prosecution case was dismissed as withdrawn by the Special Environment Court, Faridabad vide orders dated 23.05.2017. The applicants have submitted that the damage report no. DR. 29065 dated 14.05.2008 against Mr. Raj Singh Gehlot and the FCA case FR/HR/Others/13983/2015 submitted by M/S Ambience Developer and Infrastructure may be revived. The Project Proponents are liable to pay compensation and ensure restitution of the damaged environment. The applicants have further submitted that the forest land is still being used for non-forestry purposes and the offence is of continuing nature. Therefore, the present application is within limitation under Section 14 (3) of the National Green Tribunal Act, 2010. Further, application for compensation is being filed within 5 years from the date on which the cause of action for compensation arose and the application is within limitation under Section 15 (3) of the National Green Tribunal Act, 2010.

3. *Prima facie*, the averments made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010.
4. Notices alongwith copies of the application and documents attached therewith be issued to respondents no. 1 to 10 requiring them to file their response/ reply to the allegations made in the application within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.
5. List the matter for further consideration on 13.03.2023.
6. The applicant is directed to take requisite steps for effecting service of notices on the respondents and file affidavit of service in this regard within three weeks.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

December 19, 2022
AG

113
BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI

Original Application No. 881/2022

Rajinder Krishan Sharma & Anr. Vs. Union of India & Ors.

To,

1. **Union of India**
Ministry of Environment & Forests
Through the Environment Secretary
Government of India,
Paryavaran Bhawan, CGO Complex, Lodhi Road,
New Delhi- 110003
2. **Central Pollution Control Board**
Through its Secretary
CBD-cum-Office Complex,
East Arjun Nagar, Delhi- 110032
3. **The State of Haryana**
Through the Chief Secretary
4th Floor, Haryana Civil Secretariat
Sector- 1, Chandigarh -160001
4. **Haryana State Pollution Control Board**
Through its Secretary
C-11, Sector 6, Panchkula- 134102, Haryana
5. **Haryana Urban Development Authority**
Through its Chairman
C-3, Sector- 6 Panchkula- 134102, Haryana
6. **Deputy Commissioner**
DC Office, Gurgaon- 122001
7. **Commissioner of Police, Gurgaon**
Police Commissionerate
Gurgaon- 122001, Haryana
8. **Raj Singh Gehlot S/o Sh. Nihal Singh**
Director
Ambience Island and Ambience Developers & Infrastructure Pvt. Ltd.,
L-4, Green Park Extension, New Delhi- 110016
9. **Principal Chief Conservator of Forests, Haryana**
Van Bhawan, Plot No C-18,
Sector- 6, Panchkula, 160062
10. **Chief Conservator of Forests**
Sohna Road, Gurugram- 122001

NOTICE

Whereas the above titled Original Application was listed before the Hon'ble Tribunal on 19.12.2022 (copy of order as well as petition is enclosed), when the Tribunal inter-alia passed the following order:-

"4. Notices alongwith copies of the application and documents attached therewith be issued to respondents no. 1 to 10 requiring them to file their response/ reply to the allegations made in the application within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

5. List the matter for further consideration on 13.03.2023. "

2. Now, take notice that the above matter will be listed on **13th March, 2023** for further consideration, before the **Hon'ble Tribunal at Faridkot House, Copernicus Marg, New Delhi- 110001** through *Physical Hearing (With Hybrid Option)*, when you may appear before the Hon'ble Tribunal either in person or by a pleader duly instructed and file reply/response, as per directions of the Hon'ble Tribunal vide order dated 19.12.2022.

3. Take further notice that in default of your appearance on the date above mentioned, the said Application will be heard and determined in your absence.

Given under my hand and the seal of this Tribunal, on this 29th December, 2022.

Note: (For Orders, Cause Lists & other information, please visit our website www.greentribunal.gov.in)

Encl.: As above

A
29/12/2022

Consultant (Judicial)
National Green Tribunal

